

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated April 28, 2009. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-14, 18 and 21-22 are pending in the Application. Claim 4-17 are withdrawn. Claims 21-22 are added by this amendment and depend from claim 1, currently under examination. Claims 15-17 and 19-20 are canceled by this amendment, without prejudice. Applicants reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

In the Office Action, the Restriction Requirement is maintained.

Traversal of this restriction requirement is respectfully maintained.

Arguments in Support of Traversal of Restriction

It is respectfully submitted that the restriction requirement is in error and is not supportable under PCT Rules 13.1 and 13.2 since each of the claims share a single general inventive concept,

namely "providing during selection of a picture element variable voltages to said picture element prior to applying a fixed voltage to the display device having a non-zero voltage associated with an electro-optical state of the picture element to be set, wherein the variable voltages comprise a set of alternating voltages having one of a mean voltage, a root mean square voltage and an average voltage, substantially equal to the non-zero voltage" as recited in claim 1 from which each of the pending claims (claims 2-14, 18 and 21-22) depend. It is respectfully submitted that under PCT Rule 13.2, unity of invention between claims 1-14, 18 and 21-22 is fulfilled since between claims 1-3 and 4-14, 18 and 21-22 there is a "relationship among those inventions involving one or more of the same or corresponding special technical features." It is respectfully submitted that each of these inventions nonetheless involve one or more of the same or corresponding special technical features. As identified in the present application, (emphasis added) "[t]he invention is based on the insight that the application of these preceding voltages improves the homogeneity of the switching behavior of the oil film, avoiding the local spreading of the oil film and reducing the probability of breaking the oil film." (See, present application, page 2, lines 8-10.)

While the Applicants note the burdens placed on an Examiner during Examination of an application including numerous fields of classification of search, nonetheless, it is respectfully submitted that these fields of search are common to each of the identified species of the figures and corresponding claims. It is respectfully submitted that there is no clear indication provided that in reducing the claims being examined, that the burden on the Examiner is reduced. The Final Office Action provides not guidance that the required search is diminished by the Restriction in the claims examined. Accordingly, while the burden on the Examiner is admitted considerable, nonetheless, it is respectfully submitted that an examination required for searching the dependent claims presents no additional burden on examination.

Accordingly, it is respectfully requested that the restriction requirement be reconsidered and withdrawn.

Double Patenting Rejection

In the Final Office Action, claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 7,359,108. The Examiner indicated that a terminal disclaimer may

be used to overcome this rejection. This rejection is respectfully traversed, particularly in view of the present amendments to the claims. However, it is respectfully submitted that Applicants will consider filing a terminal disclaimer, if necessary in view of any allowable claims, upon indication that the present application is otherwise allowable or includes allowable claims.

Prior Art Rejection of Claims

Claims 1-3 and 18-20 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,262,833 to Loxley ("Loxley") in view of U.S. Patent Publication No. 2004/0231987 to Sterling ("Sterling") in view of U.S. Patent No. 6,262,833 to Zimmermann ("Zimmermann"). These rejections are respectfully traversed. It is respectfully submitted that claims 1-14, 18 and 21-22 are allowable over Loxley in view of Sterling in view of Zimmermann for at least the following reasons.

It is undisputed that Loxley and Sterling fail to teach, disclose or suggest "the variable voltages comprise a set of alternating voltages having a mean value substantially equal to a non-zero voltage associated with an electro-optical state of the

picture element to be set" as for example, previously recited in claim 3 (see, Final Office Action, page 7, regarding claim 3).

While Zimmermann is relied on for showing this feature of the claims, it is respectfully submitted that reliance on Zimmermann is misplaced.

Zimmerman, in Col. 2, lines 1-10 cited in the Final Office Action states that:

Neither the shape nor the amplitude of the superimposed alternating-voltage signal are critical. Not only sinusoidal but also rectangular and triangular signals could be used successfully. The amplitude of the superimposed alternating-voltage signal could be less than or greater than the amplitude of the indicating drive signal, or it could be of the same amplitude. Preferably the amplitude of the superimposed alternating voltage signal is of the same order of magnitude as the amplitude of the drive signal.

Zimmerman, in Col. 4, lines 8-18 in describing FIG. 3e, each cited in the Final Office Action, states that:

Furthermore, a form of the alternating voltage is possible, as illustrated in FIG. 3e. Preferably, in this case, as a result of an appropriate mode of operation of the modulator 4, the starting point *s* coincides with the moment of alteration of the switching state of the indicating drive signal U_A (see FIG. 3a). This form of embodiment is appropriate, above all, when the indicating signal U_A goes back to zero for a period after a change in the indicating state, because electrophoretic elements can maintain their indicating state for a long time without any voltage being applied.

It is respectfully submitted that the display device of claim 1 is not anticipated or made obvious by the teachings of Loxley in view of Sterling in view of Zimmermann. For example, Loxley in view of Sterling in view of Zimmermann does not disclose or suggest, a display device that amongst other patentable elements, comprises (illustrative emphasis added) "said driving means providing during selection of a picture element variable voltages to said picture element prior to applying a fixed voltage to the display device having a non-zero voltage associated with an electro-optical state of the picture element to be set, wherein the variable voltages comprise a set of alternating voltages having one of a mean voltage, a root mean square voltage and an average voltage, substantially equal to the non-zero voltage" as recited in claim 1.

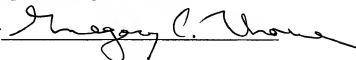
Based on the foregoing, the Applicants respectfully submit that independent claim 1 is patentable over Loxley in view of Sterling in view of Zimmermann and notice to this effect is earnestly solicited. Claims 2-14, 18 and 21-22 respectively depend from claim 1 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each

of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
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THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101